



LOUISIANA PUBLIC DEFENDER BOARD MEMO

To: The Board
From: Jean M. Faria
Re: Report of the State Public Defender
Date: August 20, 2010

BUDGET

On August 11, 2010, three candidates for the Budget Officer were interviewed. A fourth candidate was interviewed on August 18, 2010. The Chair of the Budget Committee and staff will make their final recommendation to the Board at the August 24, 2010 Board meeting.

Planning for FY 11 District Assistance Fund Distribution

Last year, the Board requested an increase from \$28 to \$40 million. The Governor's office recommended an increase of \$7.6 million, which was ultimately cut to \$5.6 million. Of that \$5.6 million, \$2.6 million was designated for the three jurisdictions either in, or threatened to be in, litigation. Approximately \$500,000 of the increase is dedicated to the purchase of our new data base/case management system.

In running the Board approved DAF and adjustment formula, even with the \$5.6 million increase, it became clear that several districts will deplete all fund balances before the end of this fiscal year. A contingency adjustment to the formula has therefore been developed for discussion at the Budget and Policy Committee Meetings. The terms "unexpended fund balance" and "reserves" need further clarification and definition for purposes of the reserve policy and more informed discussions regarding budget and financial statements.

In addition, at the August 11, 2010 hearing of the Joint Legislative Committee on the Budget, Ray Stockstill, the Executive Director of the Office of Planning and Budget, testified that every agency has been asked to prepare for a 35% budget cut. At the conclusion of the hearing, I spoke with one of the Senators on the Committee and our OPB analyst both of whom said that LPDB should not allow any district to accrue unexpended fund balance/reserves with state funds. No agency should be doing this in the current budget crisis, certainly not ours.

In light of that, and knowing that we have several districts which will deplete their unexpended fund balances before the end of the fiscal year, we will be asking the Board to approve an adjustment to the DAF to allow for contingencies. The adjustment will net approximately 1.2 million to be added to the remaining 25% of the DAF to be distributed.

Supplemental Salary/Operating and Occupancy Costs

In April of this year, the Board was presented with salary information regarding the district defenders. An updated chart on salary ranges is in the Board book. Essentially, the district defenders' salary ranges broke down along population and caseload lines into four ranges. The Budget Committee established three criteria for setting operating and occupancy costs: The Board materials contain an explanation of the supplemental salary/operating and occupancy cost recommendations. As district defender salaries must be set by the Board, the increases are being presented to the Board for a vote.

CAPITAL DIVISION

John Di Giulio met with John Craft, applicant for the Capital Case Coordinator position, to discuss the duties and responsibilities of the position. Subsequently, Mr. Craft met with Deputy Defender Julie Kilborn and me for a follow up interview, resulting in the recommendation that Mr. Craft be hired for the position, beginning in September.

COMPLIANCE DIVISION

The Compliance Officer has organized selection committees in four jurisdictions where there are openings for District Defender: 14th, 15th, 20th and 38th Judicial Districts. He met in Lafayette with the full committee seeking applicants for the position in the 15th, to give them an overview of the process and the Board's vision for better delivery of services to the clients. On August 5, he travelled with the Training Director and me to Lake Charles to meet with the District Defender and the Chief Judge about the reorganization of the district public defender office in the 14th. He returned to Lake Charles on August 12 and met with DD Mitch Bergeron, Chief Judge Wyatt, and the chairman of the selection committee, Tom Lorenzi.

Mr. Di Giulio also traveled to Plaquemine to interview staff and a social worker in the 25th judicial district public defender office to evaluate the future of the social worker program. A subsequent meeting with DD Peter Barbee and me resulted in the signing of a contract, and the commitment to fund the social worker program, if possible. Subsequent local supplemental funding has allowed this commitment to be kept, as the program was appropriated \$250,000 from the Plaquemine Parish Council.

On August 13, he attended the joint meeting of the Department of Corrections and the District Judges' Association where presentations were made concerning DOC programs. The SOAP procedure and issues were discussed, including the role, if any, of public defenders.

Contracts

Virtually all of the month of July was spent meeting with district defenders who had questions about their contracts. Other than those who have tendered resignations, we have received all of the signed district defender contracts except one.

INFORMATION TECHNOLOGY & MANAGEMENT DIVISION

The ITM staff has been working on the DAF formula and contingency adjustment. Numerous versions of the formula have been run, which is extremely time consuming. The request for the new data base/case management system is still being processed by the Purchasing Division.

On August 12, 2010, the ITM Division did a presentation to the Sentencing Commission showing the type of data we capture.

NLADA, NJDC, and YAD of Massachusetts are sponsoring an invitation-only workshop on October 21-22 in Washington, D.C. for a small number of public defender agencies that are actively developing and/or using computerized case management systems for their agencies. Our Information Technology Division has been extended an invitation to participate.

JUVENILE DIVISION

The Juvenile Division participated in the following: LPDB summer internship program ; Children's Code Committee, subcommittee for drafting a Multiple Needs Adjudication Statute; *Graham/Sullivan* Committee meetings regarding JLWOP clients incarcerated for non-homicide crimes (staff has requested files from the Louisiana Supreme Court for juveniles affected by the *Graham v. Florida* decision and are working with the Juvenile Justice Project of Louisiana to advocate for modified dispositions/sentences for these juveniles); Juvenile Defender Advisory Council (JDAC) meeting in Opelousas; a National Juvenile Defender Center/MacArthur Foundation "Train the Trainers" (two-day training) and a meeting of the Legislative Task Force for the Reform of Louisiana's School Discipline Statute.

Juvenile staff assisted General Counsel in preparing the Notice of Intent for promulgation of the *Trial Court Performance Standards for Attorneys Representing Parents in Child in Need of Care and Termination of Parental Rights Cases*. Staff continued to draft the *Trial Court Performance Standards for Attorneys Representing Children in Delinquency Proceedings* for consideration and feedback by the JDAC and other stakeholders.

Staff is developing the curriculum for the January 2011 Juvenile Defender Training for all new juvenile defenders statewide. Staff has assisted the Children's Code committee in compiling the "Missouri Model" statutes in preparation for a Legislative Task Force regarding Juvenile Justice Reform Progress. Staff has provided support to defenders requesting guidance on the use of the Family Educational Rights and Privacy Act (FERPA) and the use of confidential school records in delinquency proceedings.

Staff participated in agency-wide strategic planning, including drafting job descriptions for Act 307 positions and providing feedback for job descriptions for other staff.

SPECIAL PROJECTS

July 31-August 15, 2010

The Special Projects Advisor has worked on the following projects since the last SPD report: Moderating the juvenile legal listserv; Producing issue #15 of the e-newsletter for the field and maintaining the database; Continuing to update the LPDB website (including the addition of LPDB's Facebook page); Coordinating a distribution list for graduating (or recently graduated

lawyers in Louisiana for state-wide job promotion in districts throughout Louisiana (through the four Louisiana law schools); Creating a John R. Justice Grant distribution list and updating all District Defenders, Program Directors and Assistant Defenders on the status of the program's administration; Hosting a preview of a potential Case Management System for LPDB and convening a meeting of the Assistant Defender Advisory Council (August 6, 2010); Preparing press and other materials relating to the selection committee activities for the four districts seeking new leadership; Coordinating an all-staff meeting and creating materials related to the implementation of the FY 11-15 Strategic Plan (including the development of a vision statement, creation of job descriptions and negotiation of contract for consultant Phyllis Subin); Lending technical support for the proposed social worker pilot program in the 4th JDC; Supporting the CCLI training grant through grant report submission and the extension of WAE employment for the Grants Administrator; Supporting staff in the facilitation of the 2010 LPDB Summer Internship Debriefing, and; Updating the Fact Sheet for distribution at the Louisiana State Bar Association Minority Job Fair on August 21 (and other outreach opportunities).

TRAINING

The first annual Investigators Workshop was held July 19- 20, 2010 with seventy-seven public defender investigators in attendance. The workshop covered a variety of topics, including client and witness interviewing, strategies for obtaining various records, and teamwork. The 2011 Investigators Workshop is already being developed.

Training Director Kilborn recently served on the faculty of the Southern Public Defender Training Center in Birmingham, Alabama from August 8 - 10, 2010.

Additional trainings currently under preparation include Defender Training Institute (September 12-18, 2010; Baton Rouge); Capital Certification Seminar (October 21-22, 2010; Lafayette); Daubert Workshop (November 18-19, 2010; Alexandria); Voir Dire Academy (January 7-8, 2011; location TBD); Juvenile Defender Training (January 6-8, 2011; location TBD); Defender Leadership Training (February 25, 2011; Baton Rouge).

STAFF UPDATE

Gina Carley has joined our office as the receptionist and assistant to Dr. Stilling. She is in a 3-year non -T.O. temporary position.

Julie and Clay have interviewed three candidates for the recently vacated paralegal two position that will assist both the Training and Juvenile Divisions.

Included in the Board book are position descriptions for an auditor and a director of development. As these two positions expand the Board's ability to assure the proper use of state funds and to increase our funding from outside sources, staff recommends to the Board the approval of these positions to be included in our budget request for FY 2012.

Time sheets were instituted in the field effective August 2, 2010. They are very generic and contained on an excel spread sheet which automatically calculates time. There are two forms of the time sheet: one for staff and contract attorneys and one for supervising attorneys and attorney administrators. Copies of each are contained in the Board materials.

Staff has continued its work on the strategic plan and vision statement. The proposed vision statement is contained in the Board materials for your approval.

EXTERNSHIP

LPDB has been asked by the LSU Paul M. Hebert Law School to host an extern student for the Fall 2010 semester. The program is a part of the Public Interest and Non-Profit Externship Program that places 2nd and 3rd year law students with local public interest and non-profit advocacy organizations with a particular interest on organizations that serve the legal needs of the poor. This externship is provided at no cost to LPDB.

EJW FELLOWSHIP

In June of 2009, Cait Clarke from Equal Justice Works (EJW) attended the LBDB meeting to talk about the Equal Justice Works Externship. We have been asked to host an EJF fellow. EJW will find a sponsor. The host agency is responsible for the fellow's health insurance. This is a two year commitment on the part of the fellow lawyer. We will be asking the Board to authorize staff to pursue the fellowship and to fund reasonable health insurance costs associated with the position.

COMMITTEE WORK

Over the course of the last month, the Sentencing Commission has taken a great deal of my time. The State Public Defender is a statutory appointee. I am serving on several subcommittees and co-chair the Re-entry and Evidence Based Corrections Committee with DA Charlie Riddle from Avoyelles Parish. The Sentencing Commission asked ITM to make a presentation and John Di Giulio has attended one meeting in my stead. The Supreme Court Local Rules Committee, of which I am also a member, met in July at the First Circuit.

The reclassification of misdemeanors project is continuing. The defenders had a teleconference to discuss the scope of the project. We expect to meet with LDAA representatives in September to further this project. The Vera Institute has expressed interest and will be attending the meeting.

Nearly every lawyer on Executive Staff is a member of the LSBA Right to Counsel Committee, which has its next meeting on August 27, 2010. The RTC Committee is being renamed The Criminal Justice Committee and will again be holding a Criminal Justice Summit in 2011.